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FILED

FEB 25 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name TORRES EDWIN J.
(Last) (First) (Initial)

Prisoner Number ULK-162, 97645-011 (Fed)

Institutional Address 550 6th Street, Oakland, CA 94607

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

EDWIN J. TORRES

(Enter the full name of plaintiff in this action.)

vs.

CV

08

1114

Case No. (To be provided by the Clerk of Court)

ALAMEDA COUNTY

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
Title 42 U.S.C § 1983

MHP

(PR)

(Enter the full name of the defendant(s) in this action.)

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies.

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement GLENN DYER Jail

B. Is there a grievance procedure in this institution?

YES ☒ NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES ☒ NO ()

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

COMPLAINT

- 1 -

008-1114 MHP

1. Informal appeal 9/1/07 - 11/20/07

ASKED Repeatedly But WAS
DENIED ACCESS to a phone!

2. First formal level 11/21/07 #076-G0218

RESULT & NO RESPONSE!

copy included

3. Second formal level 1/16/08 #086-G0016

RESULT & NO RESPONSE!

copy included.

4. Third formal level NEVER INFORMED OF

ANY OTHER OPTIONS!

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☒ NO ()

F. If you did not present your claim for review through the grievance procedure, explain why. N/A

II. Parties.

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

EDWIN J. TORRES

603. 550 6TH ST. (2B9) OAKLAND, CA 94607

All other inmates are also denied this right!

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

Alameda County

1 Glenn Dyck Jail
 2 550 6th Street
 3 OAKLAND, CA 94607
 4

5 III. Statement of Claim.

6 State here as briefly as possible the facts of your case. Be sure to describe how each
 7 defendant is involved and to include dates, when possible. Do not give any legal arguments or
 8 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a
 9 separate numbered paragraph.

10 I AM BEING DENIED MY CONSTITUTIONAL
 11 FOURTEENTH AMENDMENT RIGHT OF ACCESS
 12 TO COUNSEL. THE CURRENT "COLLECT ONLY"
 13 PHONE SYSTEM DENIES ME REASONABLE
 14 ACCESS TO COUNSEL BY RESTRICTING AND
 15 DENYING ME COMMUNICATION WITH MY
 16 ATTORNEY.
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23 IV. Relief.

24 Your complaint cannot go forward unless you request specific relief. State briefly exactly
 25 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

26 I WOULD LIKE REASONABLE ACCESS TO A
 27 TELEPHONE THAT IS NOT "COLLECT ONLY"
 28 IN ORDER TO COMMUNICATE WITH COUNSEL.

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I declare under penalty of perjury that the foregoing is true and correct.

Signed this 23 day of JANUARY, 2008



(Plaintiff's signature)

JS 44 - CAND (Rev 11/04)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS

EDWIN J. TORRES

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

Alameda

DEFENDANTS

ALAMEDA County

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

Alameda

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

PND PER

ATTORNEYS (IF KNOWN)

N/A

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☒ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☒ Original Proceeding☐ Removed from State Court☐ Remanded from Appellate Court☐ Reinstated or Reopened☐ Transferred from Another district (specify)☐ Multidistrict Litigation☐ Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl/Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

42 U.S.C. 1983

Denial of Access to counsel due to "collect only" phone system.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ ☐ CHECK YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

UNDER F.R.C.P. 23

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

**ALAMEDA COUNTY SHERIFF'S OFFICE
GLENN E. DYER DETENTION FACILITY
INMATE GRIEVANCE FORM**

NAME: EDWIN TORRESPFN: ULK 162HOUSING UNIT: 605 2 B9DATE: 11/21/07

NATURE OF GRIEVANCE: (Give specific details)

I would like access to a non-caller only telephone system. I am being denied my right of access to counsel by the current caller system. The courts have clearly ruled (see U.S.C. 1983) that caller only telephone systems deny inmates reasonable access to counsel guaranteed by the Fourth Amendment. A caller only system unreasonably restricts communications between inmates and their attorneys. Neither administrative inconvenience nor lack of resources can provide justification for deprivation of constitutional rights. This right is also stated under the California Code of Regulations in Title 15. It specifically provides in sections 1067 and 1060, respectively, that prison administrators implement a plan which allows reasonable access to a telephone and ensure the right of inmates to have access to the courts and legal counsel. I filled out a message request on 11/21/07 and received no response. I understand that I must first pursue and exhaust all available administrative procedures before I can proceed with litigation. I trust that litigation under the Civil Rights Act, 42 U.S.C. 1983 will not be necessary and that there is some procedure or system in place to provide this constitutional civil right accorded to inmates. Thank you for your assistance in this matter.

*** DO NOT WRITE ON THE BACK OF THIS FORM. USE ANOTHER FORM, WRITE PAGE 2

INMATE SIGNATURE: Edwin Torres

*** DO NOT WRITE BELOW THIS LINE - ADMIN USE ONLY ***

RECEIVED BY DEPUTY: E. SILVABADGE #: 1678 DATE: 11-21-07[] RESOLVED - INMATE ACCEPTANCE: _____
EXPLAIN RESOLUTION ON REVERSE SIDE.[x] CAN NOT BE RESOLVED AT THIS LEVEL
DRAW TRACKING NUMBER FROM W/C.

FORWARDED TO SGT. _____

TRACKING NUMBER: 076-60218COPIES: White - Staff use
Yellow - Inmate Receipt Copy

ML - 51 (rev 8/06)

**ALAMEDA COUNTY SHERIFF'S OFFICE
GLENN E. DYER DETENTION FACILITY
INMATE GRIEVANCE FORM**

NAME: Edwin Thomas PFN: 162
HOUSING UNIT: D5 2B9 DATE: 11/6/07

NATURE OF GRIEVANCE: (Give specific details)

I FILED A GRIEVANCE ON 11/21/07
TRACKING # 076-60218. IT HAS
BEEN WELL OVER A MONTH AND
I HAVE RECEIVED NO RESPONSE.
I AM REFILING IN HOPES OF A
RESPONSE OR AT LEAST TO VERIFY
THAT I HAVE EXPANDED THE ADMINISTRATIVE
PROCESS WITH NO RESPONSE.

*** DO NOT WRITE ON THE BACK OF THIS FORM. USE ANOTHER FORM, WRITE PAGE 2

INMATE SIGNATURE: [Signature]

*** DO NOT WRITE BELOW THIS LINE - ADMIN USE ONLY ***

RECEIVED BY DEPUTY: T Mc GAHCE BADGE #: 898 DATE: 01/6/08

☐ RESOLVED - INMATE ACCEPTANCE: _____
EXPLAIN RESOLUTION ON REVERSE SIDE.

☐ CAN NOT BE RESOLVED AT THIS LEVEL
DRAW TRACKING NUMBER FROM W/C.

FORWARDED TO SGT. _____

TRACKING NUMBER: 08G-G0016

COPIES: White - Staff use
Yellow - Inmate Receipt Copy

ML - 51 (rev 8/06)